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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

Stohr Capital Group, Inc., dba
Source Financial, and Brandt Stohr, Owner and
Designated Broker,

Respondents.

NO. C-02-142-04-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE,
COLLECT ANNUAL ASSESSMENTS,
IMPOSE FINE, PROHIBIT FROM INDUSTRY,
COLLECT INVESTIGATION FEE AND DENY
BRANCH APPLICATIONS

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of August 17, 2004 the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents:

A. **Stohr Capital Group, Inc. / dba Source Financial (Respondent Stohr Capital Group, Inc.)** is known to have conducted the business of a mortgage broker at the following location:

12515 Bel-Red Rd. Ste. 103
Bellevue, WA 98005

1 **B. Brandt Stohr (Respondent Brandt Stohr)** is known to be owner of Respondent Stohr
2 Capital Group, Inc. Respondent Brandt Stohr was named Designated Broker on September 27, 1996,
3 and continued as Designated Broker until the closure of the business, discussed in paragraph 1.2 C.
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5 **1.2 Licenses:**

6 **A. Main Office:** Respondent Stohr Capital Group Inc.'s main office, at 12515 Bel-Red
7 Rd. Ste. 103, Bellevue, WA 98005, was licensed by the Department of Financial
8 Institutions of the State of Washington (Department) to conduct business as a
9 mortgage broker on September 27, 1996, until the business closed on or about July 13,
10 2004.

11 **B. Branch Offices:** Respondent Stohr Capital Group, Inc. was licensed to conduct
12 business as a mortgage broker at the following additional locations:

- 13 1. 12727 Renton Ave S., Seattle, WA
- 14 2. 600 E. Wishkah St., Aberdeen, WA
- 15 3. 412 109th St. SE, Everett, WA
- 16 4. 15744 Redmond Way Ste. 100, Redmond, WA
- 17 5. 7748 Corliss Ave. N., Seattle, WA
- 18 6. 7914 Nixon St. SW, Tacoma, WA
- 19 7. 3216 S. Tacoma Way, Tacoma, WA
- 20 8. 19820 40th Ave. W. Ste. 8, Lynwood, WA
- 21 9. 16430 6th Ave W. Ste. A, Lynwood, WA
- 22 10. 14044 NE 8th St., Bellevue, WA
- 23 11. 3217 Sugarloaf St. SE, Olympia, WA
- 24 12. 12505 Bel-Red Rd. Ste.212, Bellevue, WA

13. 6240 Tacoma Mall Blvd., Ste. 316, Tacoma, WA

14. 10356 Silverdale Way, Silverdale, WA

15. 8042 Aurora Ave. N., Shoreline, WA

16. 23414 26th Ave. S. Des Moines, WA

17. 10900 NE 8th St. Ste. 900, Bellevue, WA

18. 3103 S. Union Ste. B, Tacoma, WA

19. 1283 Elger Bay Rd., Camano Island, WA

20. 402 S. 333rd St. Ste.121, Federal Way, WA

21. 1421 34th Ave. Ste.200, Seattle, WA

C. **Closure of Main and Branch Offices:** By letter dated May 13, 2004, that was received by the Department on June 30, 2004, Respondent Stohr Capital Group, Inc. notified the Department it was ending all business operations on May 31, 2004. On July 13, 2004, the Department received a Mortgage Broker Office Closure/License Surrender Form from the Respondents.

1.3 Records Location: Respondent Stohr Capital Group, Inc. received approval from the Department on September 27, 1996, to maintain its records at 12515 Bel-Red Rd. Ste. 103, Bellevue, WA 98005. According to the closure documents submitted by the Respondents, the records are currently being stored at the following location: "Shurgard Storage, Redmond, WA. 98053." Respondent Stohr Capital Group, Inc., in the closure documents, reported a new mailing address of PMB 550C/16541 Redmond Way, Redmond, WA. 98052.

1.4 Unlicensed Branch Offices: Respondents Stohr Capital Group, Inc. and Brandt Stohr engaged in the business of a mortgage broker at the following branch offices without obtaining the required

STATEMENT OF CHARGES

C-02-142-SC01

Stohr Capital Group, Inc. dba Source Financial and Brandt
Stohr, Respondents

1 licenses from the Department. The branch offices at issue held themselves out to conduct such
2 business at locations that were not approved by the Department.

3 **A. 20925 Hwy 99, Lynnwood WA 98036**

4 The Department, on July 9, 2002, received the application for branch license #23612, for
5 the abovementioned address. From about January 3, 2002, to April 3, 2003, Respondents conducted
6 the business of a mortgage broker and held themselves out to conduct the business of a mortgage
7 broker at 20925 Hwy 99, Lynwood, WA 98036. The Department had not granted a license to
8 conduct the business of a mortgage broker at that location.

9 **B. 4710 University Way NE #114, Seattle WA 98105**

10 The Department, on February 26, 2002, received the application for branch license #
11 23210, for the abovementioned address. From about January 4, 2002, to February 20, 2003,
12 Respondents conducted the business of a mortgage broker and held themselves out to conduct the
13 business of a mortgage broker at 4710 University Way NE #114, Seattle, WA 98105. The
14 Department had not granted a license to conduct the business of a mortgage broker at that location.

15 **C. 321 High School Rd. Suite 432, Bainbridge Island WA 98110**

16 The Department does not have a record of the abovementioned location as being either a
17 licensed branch office or the subject of a branch license application. There is no evidence a branch
18 application was submitted or is pending for this location. Respondents conducted the business of a
19 mortgage broker and held themselves out to conduct the business of a mortgage broker at 321 High
20 School Rd. Suite 432, Bainbridge Island WA 98110 during, at a minimum, the month of February
21 2003. The Department had not granted a license to conduct the business of a mortgage broker at
22 this location.

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mortgage broker and held themselves out to conduct the business of a mortgage broker at 114 E. Chance La Mer, Suite 100, Ocean Shores, WA 98569 from at least as early as December 2003.

1.5 Aiding and Abetting Unlicensed Activity

At least eight individuals and two companies conducted the business of a mortgage broker from about February 2002 until, in some instances, the date of this order for the unlicensed branch locations mentioned in section 1.4 above. Respondents aided and abetted those individuals and companies in conducting unlicensed activities on behalf of Respondent Stohr Capital Group, Inc.

1.6 Misrepresentation of Personnel Status

Between February 2002 and July 2002, Respondents submitted seven branch license applications to the Department. Respondents, in those seven branch license applications, indicated that the branch managers were W-2 employees. However, in response to the Directive dated March 8, 2004, Respondents disclosed that those branch managers were in fact compensated as 1099 Independent Contractors (hereinafter I/C). The Department's records show no I/C agreements for these prospective branch managers. However, these branch managers were closing loans and being compensated as 1099 I/C's before, during, and after the branch license applications were submitted to the Department.

Respondents' misrepresentation of the employee's status affects Respondents' response to Addendum B (Personnel) of each license application and Addendum C (Independent Contractors) of each license application. The following individuals were listed as W-2 employees on the branch license applications but were disclosed as 1099 I/C's in the response to the Directive dated March 8, 2004:

A. **Anil Prasad** – In branch license application #23215, received by the Department on February 26, 2002, Anil Prasad was listed as a W-2 employee and branch manager. In response to the Directive dated March 8, 2004, Respondents disclosed Prasad as a 1099 I/C with Dates of Employment (hereinafter DOE) from November 2001 to January 2003. However, Respondents disclosed that Anil Prasad was still closing loans with Stohr Capital Group, Inc. as late as June 2003. The Department has no I/C agreement for Anil Prasad. In their response to the Directive dated March 8, 2004, Respondents also listed a “Neil Prasad” as a 1099 I/C with DOE from December 2001 to February 2003. A review of the branch license application makes it appear that “Anil” and “Neil” are in fact the same person.

B. **Jonathan Washburn** – In branch license application #23613, received by the Department on July 9, 2002, Jonathan Washburn was listed as a W-2 employee and as a branch manager. In response to the Directive dated March 8, 2004, Respondents disclosed that Washburn was a 1099 I/C with DOE from July 8, 2002 to February 14, 2003. The branch license application also claims that Washburn has four loan originators at the branch who are W-2 employees. The four loan originators are not named and there is no copy of the branch agreement in the file, although Respondents make reference to the branch agreement in the branch application. The Department has no I/C agreement for Washburn.

C. **Jennifer Kim** – In branch license application #23612, received by the Department on July 9, 2002, Jennifer Kim is listed as a W-2 employee and branch manager. In response to the Directive dated March 8, 2004, Respondents disclosed that Jennifer Kim was a 1099 I/C with DOE from November 2001 to March 2003. The branch license application also makes reference to two other un-named “Co-Managers” as W-2 employees and references the branch agreement, which was not included in the application. The Department has no I/C agreement for Kim.

1 D. **Chris Manji** – In branch license application # 23210, received by the Department on
2 February 26, 2002, Chris Manji is listed as branch manager and a W-2 employee. In response to the
3 Directive dated March 8, 2004, Respondents disclosed that Chris Manji was a 1099 I/C with DOE
4 from January 4, 2002 to February 20, 2003. There are several documents in the application file that are
5 signed by “Salim Manji”. Respondents did not disclose a “Salim Manji” in the Directive dated March
6 8, 2004, and the Department does not have an I/C agreement for either Chris or Salim Manji, who may
7 be the same person.

8 E. **Stephen McLinden** – In branch license application #23175, received by the
9 Department on February 8, 2002, Stephen McLinden was listed as a W-2 employee and branch
10 manager. In response to the Directive dated March 8, 2004, Respondents disclosed that McLinden was
11 a 1099 I/C with DOE from May 2002 to January 2003. The Department has no I/C agreement for
12 McLinden.

13 F. **Karen Schref-Orr** – In branch license application #23176, received by the
14 Department on February 8, 2002, Karen Schref-Orr was listed as a W-2 employee and branch
15 manager. In response to the Directive dated March 8, 2004, Respondents disclosed that Schref-Orr
16 was a 1099 I/C with DOE from April 2002 to July 2002. The Department has no I/C agreement for
17 Schref-Orr.

18 G. **Michael Nordquist** – In branch license application #23220, received by the
19 Department on February 27, 2002, Michael Nordquist is listed as a W-2 employee and branch
20 manager. In response to the Directive dated March 8, 2004, Respondents disclosed that Nordquist was
21 a 1099 I/C with DOE from February 2002 to May 2002. The Department has no I/C agreement for
22 Nordquist.

1 H. **Daniel Walker** – Respondents did not disclose Daniel Walker as either an I/C or
2 employee. The Department has no I/C agreement for Daniel Walker.

3 I. **Ryan Strong** – Respondents did not disclose Ryan Strong as either an I/C or employee.
4 The Department has no I/C agreement for Ryan Strong.

5 J. **21st Century Mortgage** – This company is owned by Brent Moody, who is also the
6 branch manager of a licensed Source Financial branch office, located at 7914 Nixon St. SW, Tacoma,
7 WA. The Department has an I/C agreement for Brent Moody, individually. Respondents disclosed 21st
8 Century Mortgage, a Corporation, as a 1099 I/C.

9 K. **Sierra Mortgage** – This Company is owned by Paulette Gentry. Respondents, in
10 response to the Directive dated March 8, 2004, disclosed Sierra Mortgage as a 1099 I/C, but did not
11 disclose Paulette Gentry as an employee. However, the Department does have an I/C agreement for
12 Paulette Gentry, individually.

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14 **1.7 Illegal Use of the Trade Name "Source Financial Mortgage Bank"**

15 From December 23, 1999, through at least December 10, 2003, Respondents used the
16 unauthorized trade name of "Source Financial Mortgage Bank" on advertisements, letterhead, and
17 documents that were given to consumers during the course of mortgage loan transactions.

18
19 **1.8 Failure to Timely Notify Department of Out of State Enforcement Actions:**

20 A. **Georgia.** On June 27, 2000, the Georgia Department of Banking and Finance revoked
21 Respondent Stohr Capital Group, Inc.'s Mortgage Broker License for failure to file audited financial
22 reports. The license was reinstated on December 1, 2000. The Georgia Department of Banking and
23 Finance issued a Notice of Intent to Revoke Respondent's License due to a cancellation of the surety

bond on May 9, 2001, and rescinded the notice on May 21, 2001. In May of 2003, Respondent Stohr Capital Group, Inc. was fined \$1000 by the Georgia Department of Banking and Finance due to the late filing of audited financial statements. Respondent Stohr Capital Group, Inc. did not disclose this information to the Department until May 2003.

B. **Idaho.** On May 21, 2001, Respondent Stohr Capital Group, Inc. applied for an Idaho State mortgage broker license. On May 30, 2001, the Idaho State Department of Finance denied the license application due to the undisclosed Georgia revocation. On June 12, 2001, the Idaho Department of Finance, in response to Respondent Stohr Capital Group, Inc.'s request for a hearing, issued a Notice of Hearing and Appointment of a Hearing Officer. A telephonic scheduling conference was held on June 20, 2001. A hearing was held on July 30, 2001, with Respondent Brandt Stohr participating by telephone. Respondent Brandt Stohr testified he knew that the Georgia license was revoked on June 27, 2000 for a failure to submit audited financial statements to the Georgia Department of Banking and Finance. Respondent Brandt Stohr argued that because the license had been reinstated he considered the revocation a "nullity". The Idaho State Hearing Officer was not persuaded by this logic. The Order Denying Mortgage Brokers License was upheld. The Order is dated August 20, 2001. The Department received copies of these enforcement actions from Idaho State by fax on May 21, 2002.

Respondent Stohr Capital Group, Inc. later reapplied for an Idaho Mortgage Brokers License and was issued a license on October 2, 2001. On August 23, 2002, the Idaho State Department of Finance issued an order to revoke Respondent Stohr Capital's Mortgage Brokers License for failure to disclose enforcement actions on their [Respondent Stohr Capital Group, Inc.'s] 2002/2003-renewal form. The Idaho State Department of Finance alleged Respondent Stohr Capital Group, Inc. failed to disclose the Georgia revocation from June 27, 2000, failed to disclose the Oregon State Cease and

1 Desist Order¹ from November 9, 2001, failed to disclose the Arizona State revocation notices dated
2 May 13, 2002 and July 11, 2002 (see more below), and failed to disclose the Idaho State license denial
3 from the August 20, 2001, Idaho State Order. Respondent Stohr Capital Group, Inc. admitted to the
4 violations, voluntarily surrendered its Idaho Mortgage Broker License, agreed not to reapply for two
5 years, and stated, "The Respondent [Stohr Capital Group, Inc.] acknowledges and understands . . . the
6 disclosure requirements of other states may also require disclosure." Respondent Brandt Stohr signed
7 the Order on January 30, 2003. The Order is dated January 30, 2003, and there is proof of service
8 documents dated February 4, 2003. The State of Idaho sent the Department a copy of the Order on
9 February 18, 2003.

10
11 C. **Arizona.** On April 25, 2002, the Arizona State Banking Department issued a Notice of
12 Hearing for violations of the Arizona Mortgage Brokers and Mortgage Bankers Act against
13 Respondent Stohr Capital Group, Inc. The Arizona State Banking Department sent an Amended
14 Notice on May 14, 2002 and a Second Amended Notice on July 11, 2002. A settlement conference
15 was held on August 14, 2002. Respondents agreed, at the settlement conference, to surrender its
16 Arizona Mortgage Bankers license, not to reapply for two years, and to pay a fine of \$30,000. The
17 Consent Order was signed by Respondent Brandt Stohr and dated August 21, 2002. A copy of the
18 consent order was faxed to the Department on August 23, 2002, by the Arizona State Banking
19 Department.

20 D. Respondent Stohr Capital Group, Inc., by letter dated May 21, 2003, disclosed the
21 actions in Oregon, Arizona, Georgia, and Idaho to the Department. The Respondents disclosure letter

22 ¹ On November 9, 2001, the Oregon Department of Consumer and Business Services, Division of Finance and Corporate
23 Securities, Finance Section issued a Cease and Desist Order against Respondent Stohr Capital Group, Inc. for failure to
24 disclose the Georgia license revocation. The Oregon Department of Consumer and Business Services, Division of Finance
25 and Corporate Securities, Finance Section fined Respondent Stohr Capital Group, Inc. \$1000. Respondent Stohr Capital
Group, Inc. admitted to the violations and Respondent Brandt Stohr signed the order. The Department received a copy of
the Oregon State action from the Oregon Department of Consumer and Business Services on January 17, 2002.

1 implies that these items had been previously disclosed, but a review of the Department's files did not
2 produce an earlier disclosure.

3
4 **1.9 Failure to Disclose Out of State Enforcement Action on Pending Branch License**
5 **Applications**

6 Respondents submitted seven branch license applications between February 2002 and July
7 2002. The application requires the disclosure of certain out of state enforcement actions (see
8 Addendum N of the branch license application). Respondents failed to disclose the Georgia revocation
9 on all seven of the branch license applications. Respondents also submitted two branch applications in
10 2001, which were approved, and failed to disclose the Georgia revocation on either application.

11 With respect to the seven branch license applications Respondents submitted to the
12 Department, Addendum N of the license application asks: "Has the applicant or any of its principals or
13 designated brokers had a license, issued under this chapter or any similar state statute in another state,
14 that has been suspended or revoked within five years of the filing of this application? If yes, please
15 attach details." Respondent Stohr Capital Group, Inc. had its Georgia License revoked on June 27,
16 2000. The branch license applications submitted by Respondents that should have included the
17 disclosure of the Georgia revocation include:

18 A. **Branch License Application #23220** – This branch license application was for 8312
19 Crestar Rd. SW Lakewood, WA 98499. In Addendum N the line is marked with a check. In the
20 "Addenda's to Branch Application" for N it says "not applicable". The Department on February 27,
21 2002, received the application.

1 B. **Branch License Application #23210** – This branch license application was for 4710
2 University Way NE #114, Seattle, WA 98105. Addendum N is checked and is answered “N/A.” The
3 Department received the application on February 26, 2002.

4 C. **Branch License Application #23612** – This branch license application was for 20925
5 Hwy 99 Lynnwood, WA 98036. Addendum N is checked and then answered “Not Applicable”. The
6 Department on July 9, 2002, received the application.

7 D. **Branch License Application #23613** – This branch license application was for 606
8 120th Ave. NE #D-204, Bellevue, WA 98005. Addendum N is checked and then answered “Not
9 applicable.” The application was received by the Department on July 9, 2002.

10 E. **Branch License Application #23175** – This branch license application for 6505 NE
11 182nd St. Suite 201, Kenmore, WA 98028. Addendum N is checked and then answered “N/A.” The
12 Department received the application on February 8, 2002.

13 F. **Branch Application License #23176** – This branch license application for 3019 N.
14 Narrows Pl. Tacoma, WA 98407. Addendum N is checked and answered “N/A.” The Department
15 received the application on February 8, 2002.

16 G. **Branch License Application #23215**-This branch license application was for 8963 49th
17 Ave. W Mukilteo, WA 98275. Addendum N is marked as “N/A.” The Department received the
18 application on February 26, 2002.

19
20 **1.10 Failure to Disclose Enforcement Actions in Approved License Applications**

21 The branch license applications that the Department granted in which Respondents failed to
22 disclose the Georgia revocation as required include:

1 A. **Branch License Application #22927**-This branch license application was received by
2 the Department on November 13, 2001. Addendum N is check and marked "N/A" and answered
3 "N/A". The Department issued the license January 25, 2002.

4 B. **Branch License Application #22688**-This branch license application was received by
5 the Department on July 6, 2001. Addendum N is checked and answered "N/A". The Department
6 issued the license on August 1, 2001.

7
8 **1.11 Failure to Pay Branch Annual Assessments:** An annual assessment fee for each branch
9 office certificate is due to the Department no later than the last business day for the year then ended.
10 To date, the Department has not received the following annual assessments due from Respondents,
11 totaling \$5386.00:

12 A Payment of the branch annual assessment of \$530.86 was due to the Department no
13 later than the last business day of April 2004 for branch license #20676.

14 B. Payment of the branch annual assessment of \$530.86 was due to the Department no
later than the last business day of May 2004 for branch license #20677.

15 C. Payment of the branch annual assessment of \$530.86 was due to the Department no
16 later than the last business day of May 2004 for branch license # 20678.

17 D. Payment of the branch annual assessment of \$530.86 was due to the Department no later
than the last business day of July 2004 for branch license #20665.

18 E. Payment of the branch annual assessment of \$530.86 was due to the Department no later
19 than the last business day of June 2004 for branch license #20657.

20 F. Payment of the branch annual assessment of \$530.86 was due to the Department no
later than the last business day of June 2004 for branch license #20660.

21 G. Payment of the branch annual assessment of \$530.86 was due to the Department no
22 later than the last business day of June 2004 for branch license #20662.

23 H. Payment of the branch annual assessment of \$530.86 was due to the Department no
later than the last business day of June 2004 for branch license #20666.

I. Payment of the branch annual assessment of \$530.86 was due to the Department no later than the last business day of June 2004 for branch license #20667.

J. Payment of the branch annual assessment of \$530.86 was due to the Department no later than the last business day of June 2004 for branch license #20680.

The Annual Assessments for the following will be due as noted in the total amount of \$1592.58:

K. Payment of the branch annual assessment of \$530.86 is due to the Department no later than the last business day of December 2004 for branch license #20671.

L. Payment of the branch annual assessment of \$530.86 is due to the Department no later than the last business day of August 2004 for branch license #22688.

M. Payment of the branch annual assessment of \$530.86 is due to the Department no later than the last business day of October 2004 for branch license #22809.

1.12 On-Going Investigation: The Department's investigation into the alleged violations of the Act by Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Licensing Requirement: Pursuant to RCW 19.146.200(1), a person may not engage in the business of a mortgage broker without first obtaining a license. Pursuant to RCW 19.146.265, a licensed mortgage broker must obtain a branch license for any branch office. Based on the information contained in the factual allegations of paragraph 1.4 above, Respondents are in apparent violation of RCW 19.146.200(1) and RCW 19.146.265.

2.2 Unfair or Deceptive Practice: Pursuant to RCW 19.146.0201(1), (2), and (3), a mortgage broker required to be licensed may not employ any scheme, device, or artifice to defraud or mislead borrowers, engage in any unfair or deceptive practice towards any person, or obtain property by fraud

or misrepresentation. Based on the information contained in the Factual Allegations of paragraphs 1.4, 1.5, 1.6, 1.7, 1.8, and 1.9 above, the Respondents are in apparent violation of RCW 19.146.0201(1), (2), and (3).

2.3 Misrepresentations to the Department Regarding Personnel: Pursuant to RCW

19.146.0201(8), a mortgage broker may not negligently make any false statement or knowingly and willfully make any omissions of material fact in connection with any reports filed by a mortgage broker or in connection with any investigation conducted by the department. Based on the information contained in the Factual Allegations of paragraphs 1.6, 1.7, 1.8, and 1.9 above, Respondents are in apparent violation of RCW 19.146.0201(8).

2.4 Requirement to File Independent Contractor Agreements: Pursuant to RCW

19.146.200(1), a person may not engage in the business of a mortgage broker except as an employee or if the mortgage broker and the independent contractor have on file with the Department a written binding agreement. Based on the information contained in the Factual Allegations of paragraph 1.6 above, Respondents are in apparent violation of RCW 19.146.200(1) for failing to submit Independent Contractor Agreements for Anil Prasad, Jennifer Kim, Jonathan Washburn, Chris Manji, Stephen McLinden, Karen Schref-Orr, Michael Nordquist, and Daniel Walker.

2.5 Requirement to Notify Department of Significant Developments: Based on the factual allegations set forth in Section 1.8 above, Respondents Stohr Capital Group, Inc. and Brandt Stohr are in apparent violation of WAC 208-660-150, for failing to notify the Director in writing within thirty days after receipt of notification of the enforcement actions taken by the State of Georgia, the State of Idaho, and the State of Arizona. Respondents Stohr Capital Group, Inc. and Brandt Stohr's ultimate disclosure of the out of state enforcement actions occurred three years after the earliest order and over 1 year after the latest order.

1 **2.6 Misrepresentation to the Department on Pending Branch Applications:** Based on the
2 factual allegations set forth in paragraph 1.9, Respondents Stohr Capital Group, Inc. and Brandt Stohr
3 are in apparent violation of RCW 19.146.0201(8), for omitting the Georgia license revocation on the
4 seven branch license applications the Respondents submitted to the Department between February
5 2002 and July 2002.

6 **2.7 Misrepresentation to the Department on Granted Branch Applications:** Based on the
7 factual allegations set forth in paragraph 1.10, Respondents Stohr Capital Group, Inc. and Brandt Stohr
8 are in apparent violation of RCW 19.146.0201(8), for omitting the Georgia license revocation on two
9 branch license applications that were approved by the Department.

10 **2.8 Requirement to Pay Annual Assessment:** Based on the Factual Allegations set forth in
11 paragraph 1.11, Respondents are in apparent violation of RCW 19.146.228(1), WAC 208-660-060(3)
12 and WAC 208-660-061 for failing to pay to the Director an annual assessment fee no later than the last
13 business day of the month in which the anniversary date of the issuance of the mortgage broker's
14 license occurs.

15 **2.9 Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(ii) and (iv), the Director
16 may revoke a license for failure to pay a required fee or for a violation of RCW 19.146.0201(1), (2),
17 (3), (8), (12), and (14). Pursuant to WAC 208-660-160(1),(3),(5),(6),(7),(10) and (14), the Director
18 may revoke a license if the Respondents: (1) have failed to pay a fee due to the state in accordance
19 with the Mortgage Broker Practices Act; (3) have had any license, or any authorization to do business
20 under any similar statute of this or any other state, suspended, revoked, or restricted within the prior
21 five years; (5) have failed to demonstrate financial responsibility, character, and general fitness such as
22 to command the confidence of the community and to warrant a belief that the business will be
23 operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act; (6)

1 has omitted, misrepresented, or concealed material facts in obtaining a license or in obtaining
2 reinstatement thereof; (7) has violated the provisions of the Mortgage Broker Practices Act, or the
3 Consumer Protection Act; (10) has aided or abetted an unlicensed person to practice in violation of the
4 Mortgage Broker Practices Act; and, (14) has performed an act of misrepresentation or fraud in any
5 aspect of the conduct of the mortgage broker business or profession. Based on the information
6 contained in the Factual Allegations of paragraphs 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, and 1.10, and 1.11 above,
7 the Respondents are in apparent violation of RCW 19.146.0201 (1),(2),(3),(8),(12), and (14) and WAC
8 208-660-160(1), (3), (5), (6), (7), (10), and (14).

9 **2.10 Authority to Deny License Applications:** Pursuant to RCW 19.146.220(2)(a)(ii), the Director
10 may deny applications for licenses for violation of RCW 19.146.0201(1) through (9). Based on the
11 information contained in the Factual Allegations of paragraphs 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10 above,
12 Respondents are in apparent violation of RCW 19.146.0201(8). Based on the information contained in
13 the Factual Allegations of paragraph 1.4, 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10 above, the Respondents are in
14 apparent violation of RCW 19.146.0201(1), (2), and (3).

15 Pursuant to WAC 208-660-160, the Director may deny the approval of a license application if
16 the applicant or licensee, or any principal or designated broker of the applicant or licensee: (1) Has
17 failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act; (3) Has had
18 any license, or any authorization to do business under any similar statute of this or any other state,
19 suspended, revoked, or restricted within the prior five years; (5) Has failed to demonstrate financial
20 responsibility, character, and general fitness such as to command the confidence of the community and
21 to warrant a belief that the business will be operated honestly, fairly, and efficiently within the
22 purposes of the Mortgage Broker Practices Act; (6) Has omitted, misrepresented, or concealed
23 material facts in obtaining a license or in obtaining reinstatement thereof; (7) Has violated the

provisions of the Mortgage Broker Practices Act, or the Consumer Protection Act; (10) Has aided or abetted an unlicensed person to practice in violation of the Mortgage Broker Practices Act; and (14) Has performed an act of misrepresentation or fraud in any aspect of the conduct of the mortgage broker business or profession. Based on the information contained in the Factual Allegations of paragraph 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, and 1.10, and 1.11 above, the Respondents are in apparent violation of WAC 208-660-160(1), (3), (5), (6), (7), (10), and (14).

2.11 Authority to Impose Fine: Pursuant to RCW 19.146.220(2)(c) and WAC 208-660-165, the Director may impose fines on a licensee that violates RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW 19.146.080, or RCW 19.146.200.

2.12 Authority to Prohibit from the Industry: Pursuant to RCW 19.146.220(2)(e)(i), the Director may prohibit from participation in the conduct of the affairs of a licensed mortgage broker, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under the Act that violates RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW 19.146.080, or RCW 19.146.200.

2.13 Authority to Charge Investigation Fee: Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and WAC 208-660-061, upon completion of any investigation of the books and records of a licensee, the Department will furnish to the licensee a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of forty-seven dollars and seventy-eight cents (\$47.78) per hour that each staff person devoted to the investigation.

2.14 Authority to Order Payment of Restitution: Pursuant to RCW 19.146.220(2)(d)(ii), the Director may issue an order directing a licensee, its employee or loan originator to pay restitution to an injured borrower.

III. NOTICE OF INTENTION TO ENTER ORDER

Respondents Stohr Capital Group, Inc. and Brandt Stohr's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

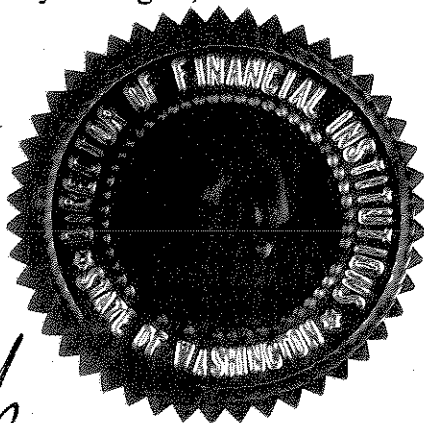
- 3.1 Respondent Stohr Capital Group, Inc.'s license to conduct the business of a Mortgage Broker be revoked; and
- 3.2 Respondents Stohr Capital Group, Inc. and Brandt Stohr jointly and severally pay the cumulative delinquent branch office Annual Assessments due through July 31, 2004 totaling \$5386.00, as calculated in Section 1.12 above. Further, Respondents Stohr Capital Group, Inc. and Brandt Stohr jointly and severally pay the cumulative branch office Annual Assessments due in August 2004, October 2004, and December 2004 totaling \$1592.58.
- 3.3 Respondents Stohr Capital Group, Inc. and Brandt Stohr jointly and severally pay a fine of \$120,000 for:
 - a. Six violations of RCW 19.146.200(1) and RCW 19.146.0201(1), (2), and (3) for operating branches without a license calculated at \$100 per day for 30 days times 6 unlicensed locations for a total fine of \$18,000;
 - b. Ten violations of RCW 19.146.200(1) and 19.146.0201(1) and (2) for aiding and abetting unlicensed activity calculated at \$100 per day for 30 days times 10 unlicensed I/C's for a total fine of \$30,000;
 - c. Eleven violations of 19.146.0201(1) and (8) for misrepresentation of personnel status calculated at \$100 per day for 30 days times 11 I/C's for a total fine of \$33,000;
 - d. One violation of 19.146.0201(1) and RCW 19.146.250, that was on-going over a four year period, for the illegal use of the trade name "Source Financial Mortgage Bank" calculated at \$100 per day for 30 days times 4 years for a total fine of \$12,000;
 - f. Seven violations of 19.146.0201(8) for failure to disclose out of state enforcement action on pending branch applications calculated at \$100 per day for 30 days times 7 pending branch applications for a total fine of \$21,000; and
 - e. Two violations of 19.146.0201(8) for failure to disclose enforcement actions in approved branch license applications at \$100 per day for 30 days times two approved branch licenses for a total fine of \$6000.
- 3.3 Respondent Brandt Stohr be prohibited from participation in the conduct of the affairs of any licensed mortgage broker, in any manner, for a period of five (5) years;
- 3.4 Respondents Stohr Capital Group, Inc. and Brandt Stohr jointly and severally pay an investigation fee in the amount of \$4216.58 calculated at \$47.78 per hour for eighty eight and one quarter (88.25) staff hours devoted to the investigation; and

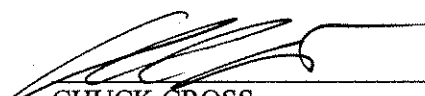
1 3.5 Respondents Stohr Capital Group, Inc and Brandt Stohr maintain records in compliance with
2 the Act and provide the Department with the location of the books, records and other
3 information relating to Respondents Stohr Capital Group, Inc. and Brandt Stohr's mortgage
4 broker business, and the name, address and telephone number of the individual responsible for
5 maintenance of such records in compliance with the Act.

6 IV. AUTHORITY AND PROCEDURE

7 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Collect
8 Annual Assessments, Impose Fine, Prohibit From Industry, Collect Investigation Fee and Deny
9 Branch Applications is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221,
10 RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The
11 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in
12 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
13 accompanying this Statement of Charges and Notice of Intention to Enter an Order to Revoke License,
14 Collect Annual Assessments, Impose Fine, Prohibit From Industry, Collect Investigation Fee and
15 Deny Branch Applications.

16 Dated this 17th day of August, 2004.



17
18 
19 CHUCK CROSS
20 Director and Enforcement Chief
21 Division of Consumer Services
22 Department of Financial Institutions

23 Presented by:

24 
25 Ned Jursek
Financial Legal Examiner

RCW 19.146.0201 Loan originator, mortgage broker -- Prohibitions -- Requirements.

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.0201 (1) (d) or (f) in connection with a residential mortgage loan to:

- (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- (2) Engage in any unfair or deceptive practice toward any person;
- (3) Obtain property by fraud or misrepresentation;
- (4) Solicit or enter into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;
- (5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting from a person exempt from licensing under RCW 19.146.020(1) (f) or (g) or a lender with whom the mortgage broker maintains a written correspondent or loan brokerage agreement under RCW 19.146.040;
- (6) Fail to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law;
- (7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;
- (8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a mortgage broker or in connection with any investigation conducted by the department;
- (9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;
- (10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by such rate of interest or otherwise fail to comply with any requirement of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500, or the equal credit opportunity act, 15 U.S.C. Sec. 1691 and Regulation B, Sec. 202.9, 202.11, and 202.12, as now or hereafter amended, in any advertising of residential mortgage loans or any other mortgage brokerage activity;
- (11) Fail to pay third-party providers no later than thirty days after the recording of the loan closing documents or ninety days after completion of the third-party service, whichever comes first, unless otherwise agreed or unless the third-party service provider has been notified in writing that a bona fide dispute exists regarding the performance or quality of the third-party service;
- (12) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or 19.146.040;
- (13)(a) Except when complying with (b) and (c) of this subsection, to act as a mortgage broker in any transaction (i) in which the mortgage broker acts or has acted as a real estate broker or salesperson or (ii) in which another person doing business under the same licensed real estate broker acts or has acted as a real estate broker or salesperson;

(b) Prior to providing mortgage broker services to the borrower, the mortgage broker, in addition to other disclosures required by this chapter and other laws, shall provide to the borrower the following written disclosure:

1 THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE
2 BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO
3 YOU. I AM ALSO A LICENSED MORTGAGE BROKER, AND WOULD LIKE TO PROVIDE MORTGAGE
4 BROKERAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.
5 YOU ARE NOT REQUIRED TO USE ME AS A MORTGAGE BROKER IN CONNECTION WITH THIS
6 TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER MORTGAGE BROKERS AND
7 LENDERS, AND TO SELECT ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

8 (c) A real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker shall carry
9 on such mortgage brokerage business activities and shall maintain such person's mortgage brokerage business records
10 separate and apart from the real estate brokerage activities conducted pursuant to chapter 18.85 RCW. Such activities shall
11 be deemed separate and apart even if they are conducted at an office location with a common entrance and mailing address,
12 so long as each business is clearly identified by a sign visible to the public, each business is physically separated within the
13 office facility, and no deception of the public as to the separate identities of the brokerage business firms results. This
14 subsection (13)(c) shall not require a real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a
15 mortgage broker to maintain a physical separation within the office facility for the conduct of its real estate and mortgage
16 brokerage activities where the director determines that maintaining such physical separation would constitute an undue
17 financial hardship upon the mortgage broker and is unnecessary for the protection of the public; or

18 (14) Fail to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

19 [1997 c 106 § 3; 1994 c 33 § 6; 1993 c 468 § 4.]

20 **RCW 19.146.200 License -- Required -- Independent contractor -- Suit or action as mortgage broker -- Display of**
21 **license.**

22 (1) A person may not engage in the business of a mortgage broker, except as an employee of a person licensed or exempt
23 from licensing, without first obtaining and maintaining a license under this chapter. However, a person who independently
24 contracts with a licensed mortgage broker need not be licensed if the licensed mortgage broker and the independent
25 contractor have on file with the director a binding written agreement under which the licensed mortgage broker assumes
responsibility for the independent contractor's violations of any provision of this chapter or rules adopted under this
chapter; and if the licensed mortgage broker's bond or other security required under this chapter runs to the benefit of the
state and any person who suffers loss by reason of the independent contractor's violation of any provision of this chapter or
rules adopted under this chapter.

(2) A person may not bring a suit or action for the collection of compensation as a mortgage broker unless the plaintiff
alleges and proves that he or she was a duly licensed mortgage broker, or exempt from the license requirement of this
chapter, at the time of offering to perform or performing any such an act or service regulated by this chapter. This
subsection does not apply to suits or actions for the collection or compensation for services performed prior to October 31,
1993.

(3) The license must be prominently displayed in the mortgage broker's place of business.

[1997 c 106 § 8; 1994 c 33 § 7; 1993 c 468 § 5.]

RCW 19.146.220 Director -- Powers and duties -- Violations as separate violations -- Rules.

(1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to
mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this
chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

(b) Suspend or revoke licenses for:

- (i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;
- (ii) Failure to pay a fee required by the director or maintain the required bond;
- (iii) Failure to comply with any directive or order of the director; or
- (iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201(1) through (9) or (12), 19.146.205(4), or 19.146.265;
- (c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:
- (i) Any violations of RCW 19.146.0201(1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or
- (ii) Failure to comply with any directive or order of the director;
- (d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:
- (i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or
- (ii) Pay restitution to an injured borrower; or
- (e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:
- (i) Any violation of 19.146.0201(1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or
- (ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;
- (iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or
- (iv) Failure to comply with any directive or order of the director.
- (3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.
- (4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.
- (5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

RCW 19.146.221 Action by director -- Hearing -- Sanction.

1 The director may, at his or her discretion and as provided for in *RCW 19.146.220(2), take any action specified in RCW
2 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated
3 for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If
4 the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any
5 grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

6 [1994 c 33 § 13.]

7 **RCW 19.146.223 Director -- Administration and interpretation.**

8 The director shall have the power and broad administrative discretion to administer and interpret the provisions of this
9 chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005.

10 [1994 c 33 § 2.]

11 **RCW 19.146.228 Fees -- Rules -- Exception.**

12 The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of
13 administering this chapter. These fees may include:

- 14 (1) An annual assessment paid by each licensee on or before a date specified by rule;
- 15 (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person
16 subject to this chapter; and
- 17 (3) An application fee to cover the costs of processing applications made to the director under this chapter.

18 Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation
19 determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the
20 complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the
21 authority of this chapter shall be deposited into the financial services regulation fund, unless the consumer services account
22 is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this
23 chapter shall be deposited in the consumer services account.

24 [2001 c 177 § 5; 1997 c 106 § 13; 1994 c 33 § 9.]

25 **RCW 19.146.230 Administrative procedure act application.**

The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and
imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall
be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

[1994 c 33 § 16; 1993 c 468 § 10.]

RCW 19.146.235 Director -- Investigation powers -- Duties of person subject to examination or investigation.

For the purposes of investigating complaints arising under this chapter, the director may at any time, either personally or by
a designee, examine the business, including but not limited to the books, accounts, records, and files used therein, of every
licensee and of every person engaged in the business of mortgage brokering, whether such a person shall act or claim to act
under or without the authority of this chapter. For that purpose the director and designated representatives shall have access
during regular business hours to the offices and places of business, books, accounts, papers, records, files, safes, and vaults
of all such persons.

The director or designated person may direct or order the attendance of and examine under oath all persons whose
testimony may be required about the loans or the business or subject matter of any such examination or investigation, and
may direct or order such person to produce books, accounts, records, files, and any other documents the director or
designated person deems relevant to the inquiry. If a person who receives such a directive or order does not attend and
testify, or does not produce the requested books, records, files, or other documents within the time period established in the
directive or order, then the director or designated person may issue a subpoena requiring attendance or compelling
production of books, records, files, or other documents. No person subject to examination or investigation under this

chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or places of business to conduct a compliance examination. The director may examine, either personally or by designee, a sample of the licensee's loan files, interview the licensee or other designated employee or independent contractor, and undertake such other activities as necessary to ensure that the licensee is in compliance with the provisions of this chapter. For those licensees issued licenses prior to March 21, 1994, the cost of such an examination shall be considered to have been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a license, the director or a designee may visit the licensee's place or places of business only to ensure that corrective action has been taken or to investigate a complaint.

[1997 c 106 § 14; 1994 c 33 § 17; 1993 c 468 § 11.]

RCW 19.146.245 Violations -- Liability.

A licensed mortgage broker is liable for any conduct violating this chapter by the designated broker, a loan originator, or other licensed mortgage broker while employed or engaged by the licensed mortgage broker.

[1997 c 106 § 16; 1994 c 33 § 22; 1993 c 468 § 15.]

RCW 19.146.250 Authority restricted to person named in license -- Exceptions.

No license issued under the provisions of this chapter shall authorize any person other than the person to whom it is issued to do any act by virtue thereof nor to operate in any other manner than under his or her own name except:

(1) A licensed mortgage broker may operate or advertise under a name other than the one under which the license is issued by obtaining the written consent of the director to do so; and

(2) A broker may establish one or more branch offices under a name or names different from that of the main office if the name or names are approved by the director, so long as each branch office is clearly identified as a branch or division of the main office. Both the name of the branch office and of the main office must clearly appear on the sign identifying the office, if any, and in any advertisement or on any letterhead of any stationery or any forms, or signs used by the mortgage firm on which either the name of the main or branch offices appears.

[1997 c 106 § 17; 1993 c 468 § 16.]

RCW 19.146.265 Branch offices -- Fee -- Licenses -- Rules.

A licensed mortgage broker may apply to the director for authority to establish one or more branch offices under the same or different name as the main office upon the payment of a fee as prescribed by the director by rule. Provided that the applicant is in good standing with the department, as defined in rule by the director, the director shall promptly issue a duplicate license for each of the branch offices showing the location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued.

[1997 c 106 § 19; 1994 c 33 § 24; 1993 c 468 § 18.]

WAC 208-660-060 Department's fees and assessments.

(1) Upon completion of processing and reviewing an application for a license or branch office certificate, the department will prepare a billing, regardless of whether a license or certificate has been issued, calculated at the rate of \$35.98 per hour that each staff person devoted to processing and reviewing the application. The application deposit will be applied against this bill. Any amount left owing to the department will be billed to and paid promptly by the applicant, while any balance remaining from the deposit will be refunded promptly to the applicant.

(2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour that

each staff person devoted to the examination. The examination billing will be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21, 1994, have prepaid in their initial license fee the cost of the first compliance examination of the licensee conducted by the department during the first two years after the date of issuance of the license.

(3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95 for each branch office certificate. The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the broker's license occurs.

(4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the department will furnish to the broker a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-660-060, filed 5/29/01, effective 7/1/01; 96-04-028, recodified as § 208-660-060, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-060, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-060, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-060, filed 1/7/94, effective 2/7/94.]

WAC 208-660-061 Fee increase.

The division intends to increase its fee and assessment rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-660-060, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

(3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-660-061, filed 5/29/01, effective 7/1/01.]

WAC 208-660-150 Disclosure of significant developments.

(1) A licensee must notify the director in writing within thirty days after the occurrence of any of the following developments:

- (a) Licensee's filing for bankruptcy or reorganization.
- (b) Receipt of notification of license revocation procedures in any state against the licensee.
- (c) The filing of a felony indictment or information related to mortgage brokering activities of the licensee, or any officer, director, principal, or designated broker of the licensee.
- (d) The licensee, or any officer, director, principal, or designated broker of the licensee being convicted of a felony.
- (e) Receipt of notification of cancellation of the licensee's surety bond or approved alternative, or any significant decline in value of an approved alternative held by the director.
- (f) The filing of any material litigation against the licensee.

(2) A licensee must notify the director in writing ten days prior to a change of the location of the licensee's principal place of business or any of its branch offices.

(3) A licensee must notify the director in writing within five days after a change in the licensee's:

- (a) Name or legal status (e.g., from sole proprietor to corporation, etc.);

- (b) Mailing address or telephone number;
- (c) President, partner, designated broker, or branch office manager;
- (d) Trust account (e.g., change in the status, location, or account number);
- (e) State master business license; or
- (f) Standing with the state of Washington secretary of state.

[96-04-028, recodified as § 208-660-150, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-150, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-150, filed 1/7/94, effective 2/7/94.]

WAC 208-660-160 License application denial or condition; license suspension or revocation.

The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

- (1) Has failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act;
- (2) Has not filed the required surety bond or approved alternative or otherwise complied with RCW 19.146.205;
- (3) Has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years;
- (4) Has within the prior seven years been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct;
- (5) Has failed to demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act. The director may find that the person has failed to make the demonstration if, among other things:
 - (a) The person is or has been subject to an injunction issued pursuant to the Mortgage Broker Practices Act or the Consumer Protection Act; or
 - (b) An independent credit report issued by a recognized credit reporting agency indicates that the person has a substantial history of unpaid debts;
 - (6) Has omitted, misrepresented, or concealed material facts in obtaining a license or in obtaining reinstatement thereof;
 - (7) Has violated the provisions of the Mortgage Broker Practices Act, or the Consumer Protection Act;
 - (8) Has had its surety bond, approved alternative, or equivalent form of business insurance, canceled or revoked for cause;
 - (9) Has allowed the licensed mortgage broker business to deteriorate into a condition which would result in denial of a new application for a license;
 - (10) Has aided or abetted an unlicensed person to practice in violation of the Mortgage Broker Practices Act;
 - (11) Has demonstrated incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;
 - (12) Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceed its assets or in the sense that the applicant or licensee cannot meet its obligations as they mature;
 - (13) Has failed to comply with an order, directive, or requirement of the director, or his or her designee, or with an assurance of discontinuance entered into with the director, or his or her designee;
 - (14) Has performed an act of misrepresentation or fraud in any aspect of the conduct of the mortgage broker business or profession;
 - (15) Has failed to cooperate with the director, or his or her designee, including without limitation by:
 - (a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary actions or denial, suspension, or revocation of a license; or
 - (b) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation into a complaint against the licensee filed with the department, or providing a full and complete written explanation of the circumstances of the complaint upon request by the director;
 - (16) Has interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action;
 - (17) Has failed to provide a required certificate of passing an approved examination;
 - (18) Has failed to provide a required certificate of satisfactory completion of an approved licensing course or, in the alternative, satisfactory proof of two years' experience in accordance with WAC 208-660-040; or

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1 (19) Has failed to provide a required certificate of satisfactory completion of an approved continuing education course.

2 [Statutory Authority: RCW 43.320.010, 19.146.223. 01-01-044, § 208-660-160, filed 12/8/00, effective 1/8/01; 96-04-028,
3 recodified as § 208-660-160, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-160,
4 filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-160, filed 1/7/94, effective
5 2/7/94.]

6 **WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act.**

7 Each mortgage broker and each of its principals, designated brokers, officers, employees, independent contractors, and
8 agents shall comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable
9 provision of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the
10 discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's
11 continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order
12 assess other penalties for a violation of the Mortgage Broker Practices Act.

13 [96-04-028, recodified as § 208-660-165, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091,
14 § 50-60-165, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-165, filed 11/8/94, effective 12/9/94.]